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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/517,353	03/02/2000	Chad Byron Moore	MRE-9	5133

20808 7590 12/04/2002

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EXAMINER

DOAN, JENNIFER

ART UNIT	PAPER NUMBER
2874	

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/517,353	MOORE, CHAD BYRON
Examiner	Art Unit	
Jennifer Doan	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-39 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-39 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 March 2000 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 and 3.
- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This application is a Continuation in Part of 09/299,370 filed on 04/26/1999, now U.S. Patent 6,414,433, which is a Continuation in Part of 08/810,960 filed on 02/27/1997, now U.S. Patent 5,984,747.

### ***Drawings***

1. The drawings, filed on 03/02/2000, are accepted.

### ***Specification***

2. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Obvious Type Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-35 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4-8, 11, 13, 15, 18, 20-24, 29, 30 and 35-43 of U.S. Patent No. 6,452,332 in view of Cheo (U.S. Patent 3,924,931).

It is noted that a lens function located on one section of the fiber surface having a shape of convex, concave; a different index of refraction than the fiber material; correcting for a chromatic aberration and selected from the group of binary, Fresnel and lenticular lens as recited in claims 1, 5-8, 14 and 26-30 are not disclosed in Moore patent.

The lens function located on the fiber surface is well known in the art as taught by Cheo. Cheo discloses, Figs. 6 and 7, a fiber (34) comprising a lens (42) located on the fiber surface having a shape of convex, concave and selected from the group of binary, Fresnel and lenticular lens as shown in the figures; the lens having a different refractive index than the fiber material (column 5, lines 6-9) and the lens function correcting for a chromatic aberration as shown in Fig. 6 for reflecting the light signals.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Moore device with lens function for reflecting the light signals.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 38 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Cheo as cited above.

Regarding claims 38 and 39, Cheo disclose, Figs. 4-7, a method of creating a three-dimensional image in a display having a multiple electrodes (32) and lens (42 and 44) comprising subdividing a voltage that creates the appearance of depth in one pixel location between more than one of the electrodes in the one pixel location such that the appearance of depth is perceived to be between either appearance of depth created by applying the voltage to any one of the electrodes and further dividing the light intensity map in the pixel location between the electrodes as shown in Figs. 4 and 5.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheo as cited above.

Cheo discloses all the limitations of the claimed invention except for the steps of forming and drawing the preform to form the fiber by coextruding the distinct materials into a preform as recited in claims 36 and 37. However, forming and drawing the preform to form the fiber is considered to be obvious, since the preform is a common method to build an optical fiber. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the method of forming and drawing the preform to form the fiber of Cheo. Doing so would be desirable to obtain the fiber with a better efficiency of coupling and transmitting the signals.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pan (U.S. Patent 5,016,963) discloses an optical fiber coupler and Moore (U.S. Patent 6,414,433) discloses a plasma displays having fibers.

10. The prior art documents submitted by applicant in the Information Disclosure Statements filed on 05/09/2000 and 11/27/2000, have all been considered and made of record (note the attached copy of form PTO-1449).

11. Any inquiry concerning the merits of this communication should be directed to Examiner Jennifer Doan whose telephone number is (703) 308-6179. The examiner can normally be reached on Monday to Thursday from 6:30am to 4:00pm, first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick, can be reached on (703) 308-4819. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

JD

JD

November 26, 2002

  
PHAN T. H. PALMER  
PRIMARY EXAMINER